

BOARD OF APPEALS CASE NO. 4876

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BEFORE THE

APPLICANT: Stephen C. Waring

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ZONING HEARING EXAMINER

REQUEST: Variance to permit an existing swimming pool and shed within the required setbacks; 110 Bright Oaks Drive, Bel Air

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 12/9/98 & 12/16/98

HEARING DATE: February 10, 1999

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Record: 12/11/98 & 12/18/98

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Stephen Waring, appeared before the Hearing Examiner requesting a variance to Section 267-26(C)(6) of the Harford County Code, for an existing pool and shed located within a recorded easement.

The subject parcel is located at 110 Bright Oaks Drive in the First Election District. The parcel is identified as Parcel No. 497, in Grid 2-E, on Tax Map 56. The parcel contains .196 acres, more or less, all of which is zoned R3.

Mr. Stephen Waring appeared and testified that the shed in question has dimensions of 10 feet by 14 feet and was on the parcel at the time he purchased the property. The Applicant said he did install a 15 foot round, above-ground swimming pool in 1998 and that he was not aware that a permit was necessary for an above-ground pool. The Applicant said that the shed is 1 foot from the property line and the pool is 3 feet from the property line and that both the shed and pool encroach into the utility easement. The Applicant said that the subject parcel is unique because it is a corner lot and that he, therefore, must comply with two front yard setbacks, reducing the usable area on the parcel. The witness also said that the dwelling is located on an angle, which further complicates the situation.

The Applicant said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code, and he introduced as Petitioner's Exhibit No. 1, a statement from both adjoining property owners that they are not opposed to the present location of the above ground swimming pool or storage shed.

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The file also contains a memorandum from the Department of Public Works indicating that after a site inspection, the Department determined that the location of the pool and shed do not adversely affect drainage in the area.

No Protestants appeared in opposition to the Applicant's request and the Staff Report of the Department of Planning and Zoning recommends conditions and provided:

"The subject property is a corner lot with two front yard setbacks. There are easements that run along the remaining two lot lines."

CONCLUSION:

The Applicant is requesting a variance to Section 267-26(C)(6) for an existing swimming pool and shed located within a recorded easement, variance to Section 267-26(C)(5)(b) to permit a shed less than 3 feet from the property line, and Section 267-26(D)(3) to permit a swimming pool closer than 10 feet to the property line.

Section 267-26(C)(6) provides:

"No accessory use or structure, except fences, shall be located within any recorded easement."

Section 267-26(C)(5)(b) provides:

"Residential detached accessory structure: six (6) feet from any principal structure and three (3) feet from side or rear yard lot line, except for lots with recorded easements. For lots with recorded easements, the setback shall be equal to the width of the recorded easement."

Section 267-26(D)(3) provides:

"Recreation facilities, such as swimming pools and tennis courts, if the facilities are used by the occupants or guests of the principal use and no admission or membership fees are charged, provided that the edge of the facility, not including security fences, shall be located not less than ten (10) feet from any side or rear lot line. For community pools and tennis courts, the edge of the facility shall be located not less than fifty (50) feet from any residential unit or side and rear lot line."

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The Applicant introduced evidence that the subject parcel is unique because it is a corner lot with two front yard setbacks, that the dwelling on the parcel was located on an angle and created additional complicating factors, and the existence of utility easements on the two remaining sides of the property. The file also contains statements from both adjoining property owners that they are not opposed to the Applicant's request and a memorandum from the Department of Public Works indicated that the present location of the pool and shed are not creating an adverse drainage problem.

It is the recommendation of the Hearing Examiner that the requested variances be approved for the reasons stated by the Applicant in his testimony and, further, that approval of the variances will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

The variances shall be subject to the following conditions:

1. The Applicant shall obtain all necessary permits and inspections.
2. Should the pool or shed need to be replaced, the new structures must meet the required setbacks.
3. The Applicant shall maintain the existing trees along the property line adjacent to Lot 86.
4. The pool and shed shall not be placed on permanent foundations.
5. If the pool or shed contribute to a drainage problem in the future, the structures shall be relocated at the owner's expense.

Date FEBRUARY 22, 1999

L. A. Hinderhofer
Zoning Hearing Examiner